

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Rule making related to average charge for care in a mental health institute

The Human Services Department hereby amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4 and 42 U.S.C. Section 1396p(c) and (d).

Purpose and Summary

This rule making updates administrative rules to adjust the average charge for care in mental health institutes (MHIs). The average charge for care in MHIs is used to determine the disposition of the income of a medical assistance income trust (MAIT) and is based on Medicaid rates because Medicaid is the primary payer of the services.

The decrease in this amount may cause fewer individuals who reside in an MHI to be able to qualify for medical assistance with MAITs because the income limit at which all income assigned to a MAIT is considered to be available for Medicaid eligibility purposes is decreased.

The statewide average private-pay charge for nursing facility care and for psychiatric medical institutions for children (PMICs) and the maximum Medicaid rate for intermediate care facilities for persons with an intellectual disability (ICF/IDs) are addressed in a separate rule making (see **ARC 3869C**, IAB 7/4/18).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 25, 2018, as **ARC 3761C**. No public comments were received. No changes from the Notice have been made.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Department finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on July 1, 2018, because this change confers a benefit to the public. The amendment brings the Department into compliance with federal regulations in 42 U.S.C. Section 1396p(c) and (d).

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on June 13, 2018.

Fiscal Impact

This rule making has a fiscal impact of less than \$100,000 annually or \$500,000 over five years to the State of Iowa. The decrease in this amount may cause fewer individuals who reside in an MHI to qualify for medical assistance with MAITs because the income limit at which all income assigned to a MAIT is considered to be available for Medicaid eligibility purposes is decreased. However, the change will have a minimal impact, as the decrease is small.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

This amendment does not contain waiver provisions because everyone should be subject to the same amounts set by this rule. Individuals may request an exception pursuant to the Department's general rule on exceptions to policy at 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making became effective on July 1, 2018.

The following rule-making action is adopted:

Amend subparagraph **75.24(3)“b”(3)** as follows:

(3) The average statewide charge to a resident of a mental health institute is ~~\$29,312~~ \$27,667 per month.

[Filed Emergency After Notice 6/13/18, effective 7/1/18]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/4/18.